



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/805,804 Confirmation No. : 9959  
First Named Inventor : David BAULCOMBE  
Filed : March 22, 2004  
TC/A.U. : 1638  
Examiner :  
  
Docket No. : 101044.53943D2  
Customer No. : 23911  
  
Title : Gene Silencing

**PETITION TO MAKE SPECIAL PURSUANT TO § 1.102(D) AND  
REQUIRED STATEMENT BY THE UNDERSIGNED PATENT  
ATTORNEY/AGENT**

**Mail Stop AMENDMENT**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition the Commissioner to make this application special under 37 C.F.R. § 1.102(d) according to the guidelines of MPEP § 708.02 (XII) which provides for small entities to request special status for biotechnology related patent applications. As required by 37 C.F.R. § 1.102(d) the fee under 37 C.F.R. § 1.17(h) is further enclosed.

**A. This Patent Application for Which Special Status is Sought  
Relates to Biotechnology**

The subject application relates to biotechnology. Particularly, this application relates to methods of post-transcriptionally inhibiting the translation of a target gene (post-transcriptional gene silencing or PTGS) by introducing into

a host cell containing the target gene short RNA molecules (SRMs) having a size of 25 nucleotides, plus or minus 1, 2, 3, 4 or 5 nucleotides, or DNA constructs that provide for the transcription of said SRMs in said host cells, wherein such SRMs specifically inhibit the translation of a gene product encoded by a target gene which contains a sequence that is complementary to said SRMs.

**B. The Assignee of This Application is a Small Entity According to United States Patent Laws**

The assignee of this patent application is Plant Biosciences Limited, a for-profit corporation located in the United Kingdom. As substantiated by the Statement by Gerard Bencen a patent manager employed by PBS being submitted with this Petition, PBL is a small entity according to United States Patent law since PBL employs less than 500 employees.

**C. That This Patent Application is a Major Asset of The Subject Assignee**

Applicants respectfully attest to the fact that this patent application is a major asset of the subject assignee, PBL. This is further supported by the Statement of Gerard Bencen.

**D. That The Development of This Technology Will be Significantly Impaired if Examination is Delayed**

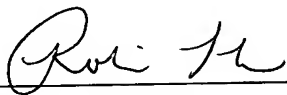
Applicants respectfully submit that the development of the technology covered by this patent application will be significantly impaired if prosecution is not expedited. Applicant's belief is supported by their knowledge that a number

of different entities including for example the Whitehead Institute, Alnylam Pharmaceuticals and the University of Massachusetts Medical Center are believed to be prospectively infringing the technology covered by this patent application. In particular, because of press releases, publications and the like the subject assignee is aware of a number of different entities who are currently producing small RNA molecules and using same for post-transcriptional gene silencing using methods.

Based on the foregoing, Applicants respectfully request that this Petition to Make Special should be granted. However, if any issues remain outstanding, the Patent Office is respectfully requested to contact the undersigned so that prosecution may be expedited.

Respectfully submitted,

December 17, 2004

  
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First Named Inventor	: David BAULCOMBE		
Filed	: March 22, 2004		
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Examiner	: Unassigned		
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**STATEMENT ESTABLISHING SMALL ENTITY STATUS IN  
SUPPORT OF PETITION TO MAKE SPECIAL**

**Mail Stop =====**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Gerard Bencen, declare and state as follows:

1. That I am currently employed by Plant Biosciences Limited (PBL) a life sciences company located in the United Kingdom as Patent Manager.
2. That PBL qualifies for small entity status under United States Patent Laws because it employs less than 500 persons.
3. That PBL was established in 1994 by the Gatsby Charitable Foundation and the John Innes Center. PBL is a for-profit technology company specializing in life sciences, including plant and microbial technology.
4. That PBL's operational activities center on protecting the intellectual property assets of PBL's two founder institutes and more recently to manage and protect the IP assets of other research laboratories and Universities located predominantly but not exclusively in the United Kingdom.

5. That in 2004 the Biotechnology and Biological Sciences Research Council (BBRSC) became a shareholder in PBL further establishing PBL's status in the UK as a company whose mission is exploiting new biotechnologies arising from public funding and emerging life science technologies.

6. That the technology being pursued in this application and related patent applications filed on even date, which relates to small RNA molecules and the use of these small RNA molecules for post-transcriptional gene silencing (PTGS) is a major asset of the company.

7. That, in my opinion, the development of this technology will be significantly impaired if examination of this application is delayed. A delay of the issuance of this application will significantly impact PBL's ability to commercialize and license its technology in part because of the fact that PBL is aware of a large number of entities who are infringing the invention claimed in this application. Exemplary of these entities are the Whitehead Institute, Alnylam Pharmaceuticals, and the University of Massachusetts Medical Center who are now practicing RNA silencing methods which PBL believes prospectively infringe the claims being pursued in this application as well as related patent applications filed on even date.

I further declare that- all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that the statements were made with the knowledge that

Attorney Docket Number 101044.53943D2  
Statement Dated: December 15, 2004

willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 16 December 2004

  
Gerard Bencen

Title: Patent Manager

Plant Biosciences Limited

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